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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/944,915	08/31/2001	Andreas Westendorf	10191/2007	3903
7590 KENYON & KENYON One Broadway New York, NY 10004				
			EXAMINER PYZOCHA, MICHAEL J	
			ART UNIT 2437	PAPER NUMBER
			MAIL DATE 10/02/2009	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

09/944,915

**Applicant(s)**

WESTENDORF ET AL.

**Examiner**

MICHAEL PYZOCHA

**Art Unit**

2437

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 July 2009.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 22-43, 45, 46 and 49-58 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 22-43, 45, 46, 49-53 and 58 is/are rejected.
- 7) ☒ Claim(s) 46 and 54-57 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_
- Paper No(s)/Mail Date \_\_\_\_\_

**DETAILED ACTION**

1. Claims 22-43, 45, 46 and 49-58 are pending.
2. Amendment filed 07/02/2009 has been received and considered.

***Claim Objections***

3. Claims 46 and 54 objected to because of the following informalities: each of these claims recites "time interviews" it should read "time intervals" to make grammatical sense. Appropriate correction is required.

***Claim Rejections - 35 USC § 103***

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
5. Claims 22-24, 29-31, 33, 34, 36, 38, 41-43, 45, 46, 50, 52 and 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gormley (US 5313107) in view of Puma (US 5729619).

As per claims 22-24, 34, 41-43, 45, 50 and 58, Gormley discloses transmitting first data to the motor vehicle controller to be used at the first processor (see column 5 line 61 through column 6 line 51); determining second data as a function of the first data (see column 6 line 4 through column 7 line 8 where the operator code is associated with the specified data); transmitting the second data to a processor; checking the second data in the processor to determine if the first data may be used in the first processor (see column 7 lines 2-32); transmitting a check result to the first processor, the check

result being a positive check result or a negative check result; responsive to receiving a positive check result, using the first data at the first processor (see column 7 lines 3-43); and making usage inquiries to the processor at pre-selected times (see column 7 lines 23-43).

Gormley fails to explicitly disclose the second data (i.e. the operator code) is transmitted a second processor and that the inquiries to the second processor are done repeatedly at pre-selected time intervals.

However, Puma teaches the second data (i.e. the operator code) is transmitted a second processor and that the inquiries to the second processor are done repeatedly at pre-selected time intervals (see column 12 line 57 through column 13 line 15).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to process the verification data of Gormley in a second processor and to repeatedly check this data.

Motivation to do so would have been to prevent unauthorized users from using the system (see Puma column 12 line 57 through column 13 line 15).

As per claims 29 and 30, the modified Gormley and Puma system fails to explicitly disclose connecting processors using a wireless connection. However, Official Notice is taken that it would have been obvious to one of ordinary skill in the art to use wireless connections for the processors in order to maintain mobility of the vehicle.

As per claims 31, 33 and 36, the modified Gormley and Puma system discloses accessing a database and allowing and storing data (see Gormley column 7 lines 2-22).

As per claim 38, the modified Gormley and Puma system discloses delivering a warning if the first data is not released (see Gormley column 7 lines 2-43 and Puma column 12 line 57 through column 13 line 15).

As per claims 46 and 52, the modified Gormley and Puma system discloses the checking is executed and the use of the first data is based on time (see Gormley column 7 lines 23-43 and Puma column 12 line 57 through column 13 line 15).

6. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Gormley and Puma system as applied to claim 22 above, in view of Okada (US 6704872).

As per claim 25, the modified Gormley and Puma system transmitting the first data to the first processor from a third processor (see Gormley as applied above), but fails to disclose including an identity of the processor with the authentication information.

However, Okada teaches including such information (see Abstract).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to including the identity of the processor with the information of the modified Gormley and Puma system.

Motivation to do so would have been to restrict the use of a specific software program to a single processor (see Okada abstract).

7. Claims 26-28, 39 and 40 are rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Gormley and Puma system as applied to claim 22 above, and further in view of Menezes et al. (Handbook of Applied Cryptography).

As per claims 26-28, 39 and 40, the modified Gormley and Puma system fails to disclose checking for an error-free transmission and using an electronic signature.

However, Menezes et al. teaches these features (see pages 22-23).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to check for error-free transmission and use electronic signatures in the modified Gormley and Puma system.

Motivation to do so would have been to provide authorization and non-repudiation of the transmitted data (see Menezes et al. page 22).

8. Claims 32, 51 and 53 are rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Gormley and Puma system as applied to claim 22 above, and further in view of Schepps et al. (US 5974368).

As per claims 32, 51 and 53, the modified Gormley and Puma system fails to disclose charging a payment for the use of the first data.

However, Schepps et al. teaches charging a fee for the use of certain data (see column 12 lines 10-18).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to charge for the use of the data in the modified Gormley and Puma system.

Motivation, as recognized by one of ordinary skill in the art to do so would have been to earn money for the use of a feature.

9. Claim 35 is rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Gormley and Puma system as applied to claim 22 above, in view of Gurr (US 4264960).

As per claim 35, the modified Gormley and Puma system fails to disclose starting a check of the first data in the first processor; and restarting the check in the first processor if the check has not been run through completely.

However, Gurr et al teaches such a check (see column 16 line 52 through column 17 line 3).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to include the checking system of Gurr in the modified Gormley and Puma system.

Motivation to do so would have been to check a message for errors (see Gurr column 16 line 52 through column 17 line 3).

10. Claim 37 are rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Gormley and Puma system as applied to claim 22 above, in view of Coley et al. (US 5790664).

As per claim 37, the modified Gormley and Puma system fails to disclose deleting data if there is no license.

However, Coley et al. teaches such a practice (see column 14 lines 57-67).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to delete the content of the modified Gormley and Puma system when there is no license.

Motivation to do so would have been to protect the data from unauthorized use (see Coley et al. column 14 lines 57-67).

11. Claim 49 is rejected under 35 U.S.C. 103(a) as being unpatentable over the modified Gormley and Puma system as applied to claim 22 above, and further in view of Shamoon et al. (US 7233948).

As per claim 49, the modified Gormley and Puma system fails to explicitly disclose deleting the first data in response to a negative check result.

However, Shamoon et al. teaches deleting when a result is negative (see column 9 lines 34-43).

At the time of the invention it would have been obvious to a person of ordinary skill in the art to delete the content of the modified Gormley and Puma system.

Motivation to do so would have been to prevent unauthorized alterations (see Shamoon et. al column 9 lines 34-43).

#### ***Allowable Subject Matter***

12. Claims 54-57 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

13. The following is a statement of reasons for the indication of allowable subject matter: The prior art generally teaches the aspects in these claims but are found in different fields of endeavor. As such, when combined with the intermediary claims one



of ordinary skill in the art would not find these claims as a whole obvious over the prior art.

### ***Response to Arguments***

14. Applicant's arguments with respect to claims 22-43, 45, 46, 49-53 and 58 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MICHAEL PYZOSKA whose telephone number is

(571)272-3875. The examiner can normally be reached on Monday-Thursday, 7:00am - 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Emmanuel Moise can be reached on (571) 272-3865. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/Michael Pyzocha/  
Examiner, Art Unit 2437